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DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB-2012-0005; Notice No. 130]

RIN: 1513-AB88

Proposed Establishment of the Elkton Oregon Viticultural Area

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) proposes to establish the approximately 74,900-acre “Elkton Oregon” viticultural area in Douglas County, Oregon. The proposed viticultural area lies totally within the Umpqua Valley viticultural area and the multi-county Southern Oregon viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. TTB invites comments on this proposed addition to its regulations.

DATES: Comments must be received on or before [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Please send your comments on this notice to one of the following addresses:

- <http://www.regulations.gov> (via the online comment form for this notice as posted within Docket No. TTB–2012–0005 at “Regulations.gov,” the Federal e-rulemaking portal);
- U.S. mail: Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044–4412; or
- Hand delivery/courier in lieu of mail: Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 200-E, Washington, DC 20005.

See the **Public Participation** section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of this notice, selected supporting materials, and any comments TTB receives about this proposal at <http://www.regulations.gov> within Docket No. TTB–2012–0005. A link to that docket is posted on the TTB Web site at http://www.ttb.gov/wine/wine_rulemaking.shtml under Notice No. 130. You also may view copies of this notice, all related petitions, maps or other supporting materials, and any comments TTB receives about this proposal by appointment at the TTB Information Resource Center, 1310 G Street, NW., Washington, DC 20220. Please call 202–453–2270 to make an appointment.

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Box 12, Washington, DC 20005; telephone 202–453–1039, ext. 175.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels, and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120-01 (Revised), dated January 21, 2003, to the TTB Administrator to perform the functions and duties in the administration and enforcement of this law.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) contains the list of approved American viticultural areas.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features as described in part 9 of the regulations and a name and

a delineated boundary as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment or modification of American viticultural areas. Such petitions must include the following—

- Evidence that the area within the proposed viticultural area boundary is locally or nationally known by the viticultural area name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed viticultural area;
- A narrative description of the features of the proposed viticultural area that affect viticulture, such as climate, geology, soil, physical features, and elevation, that make the proposed viticultural area distinctive and distinguish it from adjacent areas outside the proposed viticultural area boundary;

- A copy of the appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed viticultural area, with the boundary of the proposed viticultural area clearly drawn thereon; and
- A detailed narrative description of the proposed viticultural area boundary based on USGS map markings.

Elkton Oregon Petition

TTB received a petition from Michael Landt, on behalf of himself and the owners of seven other Elkton area vineyards, proposing the establishment of the “Elkton Oregon” American viticultural area in Douglas County in southwestern Oregon. The proposed viticultural area encompasses approximately 74,900 acres, with 12 commercially-producing vineyards covering 96.5 acres, according to the petition. The petition also included a map indicating that the vineyards are disbursed throughout the proposed viticultural area.

The proposed Elkton Oregon viticultural area is located entirely within the larger Umpqua Valley viticultural area (27 CFR 9.89), which, in turn, is located entirely within the Southern Oregon viticultural area (27 CFR 9.179). The proposed viticultural area covers approximately 11 percent of the 689,904-acre Umpqua Valley viticultural area and 0.04 percent of the much larger 1,977,298-acre Southern Oregon viticultural area. The proposed Elkton Oregon viticultural area lies to the northwest of, but does not share any boundary with, the Red Hills Douglas County viticultural area (27 CFR 9.190), which also is entirely within the Umpqua Valley viticultural area, and it is southwest of the Willamette Valley viticultural area (27 CFR 9.90). The petition states that the marine influence from

the Pacific Ocean distinguishes the proposed viticultural area from the larger Umpqua Valley.

TTB notes that the boundaries and name usage of the Umpqua Valley and Southern Oregon viticultural areas would not be affected by the establishment of the proposed Elkton Oregon viticultural area. TTB also notes that, except for its location within the existing Umpqua Valley and Southern Oregon viticultural areas, the proposed viticultural area does not overlap any other existing or proposed viticultural areas. Unless otherwise noted, all information and data contained in the below sections are from the petition for the proposed viticultural area and its supporting exhibits.

Name Evidence

The proposed Elkton Oregon viticultural area surrounds the small, incorporated town of Elkton, Oregon, which is located at the confluence of Elk Creek and the Umpqua River in northern Douglas County. The town is shown on the USGS topographical “Elkton Oregon” quadrangle map, and it is listed as a populated place in the USGS’s Geographical Names Information System (GNIS; <http://geonames.usgs.gov/index.html>). A search of GNIS shows the name “Elkton” used 11 times for places, sites, or buildings in Oregon, all of which are in Douglas County, with 9 of those names appearing on the Elkton quadrangle map and the remaining 2 names appearing on maps of adjoining quadrangles.

The town of Elkton also is shown on commercially-produced road maps. For example, the American Automobile Association (AAA) map, Oregon

Washington State series, published February, 2008, shows the town of Elkton in western Oregon on State Route 38 between Interstate 5 and the Pacific Ocean.

The City of Elkton Web site (<http://www.elkton-oregon.com>) lists information about the city and its elected officials. The Elkton School District website (<http://www.elkton.k12.or.us/>) includes information on the Elkton Grade School and Elkton High School. Other places located within the proposed viticultural area include the Elkton Baptist Church, Elkton Christian Church, Elkton Lions Club, Elkton RV Park, Elkton Cash Market, and Elkton Bait and Tackle, according to the Elkton Business Directory Web page (<http://www.elkton-oregon.com/businessdirectory>).

According to a search of the GNIS system, the Elkton name is also used for at least 123 towns and sites in 16 States. Given that the name “Elkton” is used for various locations throughout the United States, the petitioners included “Oregon” as part of the proposed viticultural area name to more specifically describe the location of the proposed viticultural area.

Boundary Evidence

The proposed Elkton Oregon viticultural area is nestled in the northwest portion of the Umpqua Valley viticultural area, which is, in turn, within the larger, multi-county Southern Oregon viticultural area. The northern portion of the boundary line and part of the western portion of the boundary line for the proposed Elkton Oregon viticultural area coincides with portions of the boundary line for the Umpqua Valley and Southern Oregon viticultural areas. The proposed viticultural area does not include the northwestern-most part of the

Umpqua and Southern Oregon viticultural areas because of that area's more extreme marine influence, which is inconsistent with the distinguishing features of the proposed viticultural area.

The northern portion of the boundary line for the proposed Elkton Oregon viticultural area follows the 1,000-foot elevation line that separates the higher, more rugged mountain terrain outside the proposed viticultural area from the lower elevations within the proposed viticultural area that descend to the Umpqua River.

The proposed eastern portion of the boundary line incorporates 1,000-foot elevation lines, several connecting straight lines between marked points on USGS maps, and a portion of Elk Creek to separate the lower elevated foothills and river bottom within the proposed viticultural area from the higher mountain elevations to the east.

The proposed southern portion of the boundary line follows a 1,000-foot elevation line and then a straight line to the southwest corner of the proposed viticultural area, separating the lower elevated wide terraces along the Umpqua River from the higher elevated rugged mountain terrain to the south.

The proposed southwestern and western portions of the boundary line are connected straight lines between marked points on USGS maps that are based on the western extent of viticulture in the Elkton area, separating the proposed viticultural area from heavily timbered and remote areas to the west. The southwestern and western portions of the proposed Elkton Oregon viticultural

area boundary line also coincide with the northwest portion of the boundary lines for both the Southern Oregon and Umpqua Valley viticultural areas.

Distinguishing Features

The distinguishing features of the proposed Elkton Oregon viticultural area include climate and topography.

Climate

The marine influence from the Pacific Ocean moderates temperatures and creates a unique micro-climate within the proposed Elkton Oregon viticultural area. The proximity to the Pacific Ocean, geographical location along the Umpqua River, and low elevation combine to influence the Elkton area growing season climate. The coastal marine influence brings cooling breezes, fog, and moist air inland from the Pacific coastline along the Umpqua River and into the proposed viticultural area, resulting in a milder and longer growing season with more rainfall than in the surrounding areas. The cooler temperatures make the proposed viticultural area suitable for growing cool climate varieties of grapes, such as pinot noir, that do not grow and mature as reliably in the warmer climates of the region farther to the south within the Umpqua Valley and Southern Oregon viticultural areas.

Climate data from within the proposed Elkton Oregon viticultural area and from areas to the east and south was obtained from the Western Regional Climate Center (WRCC) web site, which collects data from various federal, state, and local agencies. All data is from the 1971–2000 climate normals for each station and is summarized in the table below. The five weather stations from

which the data was collected are located in Elkton and in Drain, Riddle, Roseburg, and Winchester, four communities within the larger Umpqua Valley and Southern Oregon viticultural areas.¹

Location (Direction from the proposed viticultural area)	Median Date of Last Spring Frost	Median Date of First Fall Frost	Frost-Free Period (days)	Average growing degree day units (Winkler) ²	Average Annual Precipitation (inches)
Elkton	April 2	November 9	220	2346	52.5
Drain (East)	April 24	October 26	193	2268	47.9
Riddle (South)	April 22	October 31	191	2436	31.6
Roseburg (South)	April 7	November 8	215	2683	33.7
Winchester (South)	March 28	November 5	222	2426	35.7

The table shows that the climates of the areas to the east and south differ from the climate within the Elkton Oregon proposed viticultural area. The community to the east of the proposed viticultural area (Drain) receives less precipitation and has cooler temperatures, as shown by the shorter frost-free period and fewer growing degree day (GDD) units. Drain also has a shorter growing season than the proposed viticultural area, as indicated by a later date of last spring frost and earlier date of first fall frost.

¹ Due to the lack of weather stations in the areas to the west and north of the proposed Elkton Oregon viticultural area, data was not available for those areas.

² In the Winkler climatic classification system, annual heat accumulation during the growing season, measured in annual GDD, defines climatic regions. One GDD accumulates for each degree Fahrenheit that a day's mean temperature is above 50 degrees, the minimum temperature required for grapevine growth ("General Viticulture," by Albert J. Winkler, University of California Press, 1974, pages 61–64). Climatic region I has less than 2,500 GDD units per year; region II, 2,501 to 3,000; region III, 3,001 to 3,500; region IV, 3,501 to 4,000; and region V, 4,001 or more (*ibid.*).

The communities located in the region to the south of the proposed viticultural area (Riddle, Roseburg, and Winchester) are generally warmer and drier than the proposed viticultural area. The three communities all receive significantly less precipitation, with annual totals of between 31 and 35 inches. All three communities also have higher totals of GDD units, indicating a warmer climate than within the proposed viticultural area. The warmer temperatures allow grapes to ripen earlier and harvest to take place in September, whereas grapes within the cooler proposed viticultural area are frequently not ripe enough to harvest until October, according to the petitioner.

The petitioner attributes the cooler climate of the proposed Elkton Oregon viticultural area to its proximity to the Pacific Ocean. During the summer, frequent breezes travel inland from the Pacific Ocean along the Umpqua River and into the proposed viticultural area. The breezes begin in the late afternoon and contribute to lower nighttime temperatures. To offset the cooling effect of the breezes and ensure the greatest chance for grapes to ripen fully, most vineyards within the proposed viticultural area are planted at lower elevations, where temperatures are warmer than on the higher slopes. The cool nighttime temperatures resulting from the breezes also promote morning fog. Because the fog persists until late morning, vineyards do not receive much sunlight until the afternoon. As a result, vineyards within the proposed viticultural area are commonly planted on the west side of slopes, where they can benefit most from the afternoon sun. The cool, moist air from the Pacific diminishes as it travels

south along the Umpqua River, resulting in little fog and few cool breezes reaching the communities south of the proposed viticultural area.

The marine influence of the Pacific Ocean also contributes to the high precipitation levels within the proposed viticultural area. Moist air traveling east from the Pacific Ocean is blocked by the mountains to the west of the proposed viticultural area and the Umpqua Valley and Southern Oregon viticultural areas and only enters these areas through gaps in the mountains created by creeks and rivers, particularly the Umpqua River. The proposed viticultural area receives more of this moist air than other regions within the larger Umpqua Valley viticultural area because the Pacific air diminishes the farther it travels from the ocean and has less moisture by the time it reaches the communities farther upstream. The amount of annual rainfall within the proposed viticultural area makes irrigation unnecessary, unlike in the areas farther to the east and south within the Umpqua Valley (“Explore Wine Regions in Oregon: Umpqua Valley,” from the Oregon Wine Board website, www.oregonwine.org).

Topography

TTB notes that the proposed Elkton Oregon viticultural area can be described as a steep-sided basin, consisting of low-lying, relatively flat river bottom lands that quickly rise to steep slopes. The Umpqua River enters from the south, through a gap in the mountain range near the town of Kellogg, and exits through a similar gap in the northwest corner of the proposed viticultural area. The terrain of the proposed viticultural area is most notably marked by the broad turns of the Umpqua River. Along these river bends are river terraces and

foothills with lower elevations and gentle slopes with grades of 2 to 12 percent, in addition to wide swaths of relatively flat river bottom land. Elk Creek, which is also bordered by river terraces and river bottom land, flows from east to west through the northeastern portion of the proposed viticultural area, joining with the Umpqua River near the town of Elkton.

The flat river bottom land and gentle river terraces of the Umpqua River and Elk Creek form the bottom of the basin. Above the river terraces and river bottom lands, the terrain quickly rises to steep, rugged hills with higher elevations, forming the sides of the basin, with the 1,000-foot elevation contour forming the rim. The 1,000-foot elevation contour was chosen to form most of the boundary line for the proposed viticultural area because above 1,000 feet the land becomes too steep and rugged for vineyards. Elevations within the proposed Elkton Oregon viticultural area vary from approximately 122 feet in elevation along the Umpqua River to a peak at the 1,754-foot elevation in the southwestern portion of the proposed viticultural area near Heddin Creek.

The basin-like shape of the proposed viticultural area, along with the Umpqua River, contributes to the distinctive climate of the proposed viticultural area. Cool, moist air travels east from the Pacific Ocean along the Umpqua River and into the Elkton area, bringing mild growing season temperatures, summer breezes, and rain. The steep slopes to the north, east, and south of the proposed Elkton Oregon viticultural area trap most of the cool air and precipitation within the lower elevations of the basin, preventing much of the marine influence from travelling farther into the Umpqua Valley viticultural area.

As a result, the remainder of the Umpqua Valley viticultural area is warmer and drier than the proposed Elkton viticultural area.

All of the vineyards within the proposed Elkton Oregon viticultural area are located on the gentle river terraces and foothills along the Umpqua River and Elk Creek, at elevations of 140 to 1,000 feet. In discussions with TTB, the petitioner stated that river terraces and foothills are preferable to river bottom lands because the river bottom lands have thick layers of topsoil which allows vines to grow too vigorously, requiring special cultivation techniques in order to create a favorable foliage-to-fruit ratio. The terraces and foothills, by contrast, are less fertile, with a thinner layer of topsoil over gravel. As a result, the vines require less extensive pruning to produce the desired foliage-to-fruit ratio.

The area to the west of the proposed Elkton Oregon viticultural area is desolate, heavily forested, and rugged. In this region, the Umpqua River is closely bound by the rugged terrain, with little to none of the open river bottom land or gentle river terraces and foothills found within the proposed viticultural area, until the river reaches the ocean, according to USGS maps. Elevations to the west rise to 1,410 feet along ridge lines and dip to 40 feet along the Umpqua River as it flows toward the Pacific Ocean.

To the north of the proposed viticultural area, the elevation rises rapidly to 1,871 feet at Devil Peak in the region marked on USGS maps as Devils Graveyard. TTB notes that the only lower elevation areas in this area are along the small canyon creeks that feed into the Umpqua River and Elk Creek. However, according to the USGS maps, even these small creeks are closely

bound by steep hillsides and lack the gently-sloped river terraces and foothills suitable for viticulture, which are characteristic of the proposed viticultural area.

Elevations east of the proposed viticultural area range from 200 feet along Elk Creek and Big Tom Folley Creek to the 2,456-foot peak of Yellow Butte.

There is very little open land east of the proposed viticultural area until Putnam Valley near the town of Drain, 14 miles from Elkton. Although numerous creeks flow through the region to the east of the proposed viticultural area, they are closely bound by steep hillsides and lack gentle slopes suitable for viticulture.

To the immediate south of the proposed viticultural area, the Umpqua River flows along a more constricted course, with sharper turns, narrower river bottom lands, and steeper slopes along its banks. Elevations are generally similar to those found within the proposed viticultural area, but the lack of open terrain and gentle slopes, particularly along the Umpqua River, distinguishes this region from the proposed viticultural area. Farther south, near the town of Roseburg (approximately 35 miles away from the proposed viticultural area), the land along the Umpqua River opens and becomes suitable for viticulture.

However, in discussions with TTB, the petitioner noted that the majority of vineyards in the southern region of the Umpqua Valley viticultural area are located on river bottom land due to the steeply graded slopes and higher elevations beyond the river bottom land. By comparison, all of the vineyards within the proposed Elkton Oregon viticultural area are planted on the gentle slopes of the river terraces and foothills.

Comparisons of the Proposed Elkton Oregon Viticultural Area to the Existing Umpqua Valley and Southern Oregon Viticultural Areas

Umpqua Valley Viticultural Area

The Umpqua Valley viticultural area was established by T.D. ATF–170, which published in the **Federal Register** on March 29, 1984 (49 FR 12246).

According to T.D. ATF–170, the Umpqua Valley viticultural area is a lowland section of the Umpqua basin bounded on the west and north by the Coast Range, to the south by the Klamath Mountains, and on the east by the Cascade Range. The terrain of the surrounding area is generally steep and rugged. The 1,000-foot elevation line is the basic boundary line and a reliable indicator of suitability for cultivation in the region. Above the 1,000-foot elevation line, the terrain becomes steep and less hospitable to agriculture, and noticeable differences occur in climate, soils, topography, and vegetation.

The proposed Elkton Oregon viticultural area, similar to the Umpqua Valley viticultural area, also has low elevations with a boundary line that rises to 1,000 feet in elevation to exclude areas without viticultural potential. However, due to its smaller size, the proposed Elkton Oregon viticultural area has a less varied topography that consists primarily of river bottom lands and gently-sloping river terraces at lower elevations than much of the rest of the Umpqua Valley.

The Umpqua Valley viticultural area has cool winters and warm summers. The Coast Range Mountains to the west block most of the marine influence moving inland from the Pacific Ocean, making this viticultural area warmer and less foggy than the coastal region. The cool marine air that does enter along the

Umpqua River diminishes the farther upstream it travels, so that very little reaches the southernmost portion of this viticultural area.

The Coast Range Mountains also shield the proposed Elkton Oregon viticultural area and make the proposed viticultural area warmer and drier than the region along the Pacific coast. However, because of its downstream location along the Umpqua River, the proposed viticultural area receives more cool breezes and moisture from the Pacific Ocean than areas farther upstream. As a result, the proposed viticultural area has lower temperatures and more fog than locations farther south within the Umpqua Valley viticultural area.

The Umpqua Valley viticultural area is also described as having high annual rainfall amounts, but also a notable lack of rainfall during the summer months. By contrast, annual rainfall amounts are higher within the proposed Elkton Oregon viticultural area due to moist air from the Pacific Ocean. Rainfall also occurs more frequently during the growing season within the proposed Elkton Oregon viticultural area than in the Umpqua Valley viticultural area, making vineyard irrigation unnecessary.

Southern Oregon viticultural area

The large 1,977,298-acre Southern Oregon viticultural area was established by T.D. TTB-19, which published in the **Federal Register** on December 8, 2004 (69 FR 70889). The Southern Oregon viticultural area boundary encompasses the established Umpqua Valley and Rogue Valley viticultural areas, as well as the Applegate Valley viticultural area, which is totally within the larger Rogue Valley viticultural area. Between the Rogue Valley and

Umpqua Valley viticultural areas is a connecting valley corridor with viticultural potential that is part of the Southern Oregon viticultural area.

T.D. TTB-19 describes the Southern Oregon viticultural area as a series of high intermountain valleys that share a warm, sunny, arid climate and contain old, complex soils derived from bedrock. To the west, the Coast Range casts a rain shadow on the south and east parts of the Southern Oregon viticultural area that reduces precipitation and buffers the cooling marine air from moving inland to the grape-growing regions. As a result, the Southern Oregon viticultural area has the warmest grape-growing conditions in Oregon and moderated precipitation.

Vineyards in the Southern Oregon viticultural area are typically situated in high mountain valleys. Vineyard elevations range from below 1,000 feet along the Umpqua River, in the northern portion of the Southern Oregon viticultural area, to 2,000 feet in the Rogue Valley viticultural area at the southern end of the Southern Oregon viticultural area. Both warm and cool wine grape varieties grow successfully in different parts of the Southern Oregon viticultural area.

The proposed Elkton Oregon viticultural area is one of the high mountain valleys within the Southern Oregon viticultural area. The proposed viticultural area, as with the Umpqua Valley viticultural area in which it would be located, broadly shares some characteristics of the larger Southern Oregon viticultural area, such as vineyards below the 2,000-foot elevation line and lower precipitation and warmer temperatures than the coastal regions to the west. However, the proposed Elkton Oregon viticultural area has a distinctive

microclimate due to its proximity to both the Pacific Ocean and the Umpqua River. The marine influence from the ocean brings cooling breezes and moist air up the Umpqua River and into the proposed viticultural area, resulting in high annual precipitation amounts and a mild growing season climate. As a result of the mild climate, the proposed viticultural area produces cooler climate varieties of grapes almost exclusively because they mature more reliably than warmer varieties of grapes.

TTB Determination

TTB concludes that the petition to establish the 74,900-acre Elkton Oregon viticultural area merits consideration and public comment, as invited in this notice.

TTB notes that the name “Elkton OR” is an equivalent form of the petitioned-for name “Elkton Oregon.” Although the original petition only proposed the name “Elkton Oregon” in reference to the proposed viticultural area, TTB believes that also allowing the abbreviated “Elkton OR” as an alternative name is appropriate. TTB does not believe allowing the abbreviated form as an alternative viticultural area name would cause consumer confusion. Therefore, the part 9 regulatory text set forth in this proposed rule specifies both “Elkton Oregon” and “Elkton OR” as names for this proposed viticultural area.

Boundary Description

See the narrative boundary description of the petitioned-for viticultural area in the proposed regulatory text published at the end of this notice.

Maps

The petitioner provided the required maps, and they are listed below in the proposed regulatory text.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any reference on a wine label that indicates or implies an origin other than the wine's true place of origin. If TTB establishes this proposed viticultural area, its name, "Elkton Oregon," and the alternative name "Elkton OR," will both be recognized as terms of viticultural significance under 27 CFR 4.39(i)(3). The text of the proposed regulation clarifies this point.

On the other hand, TTB does not believe that any single part of the proposed viticultural area name standing alone, that is, "Elkton" or "Oregon," would have viticultural significance in relation to this proposed viticultural area. The GNIS shows the name "Elkton" used in reference to 132 locations, including populated places in 16 states, so TTB believes that "Elkton," standing alone, would not necessarily imply that a wine originated within the proposed viticultural area. Additionally, "Oregon," standing alone, is locally and nationally known as referring to the State of Oregon, which is already a term of viticultural significance as a state-wide appellation of origin under 27 CFR 4.25(a)(1)(ii), and under 27 CFR 4.39(i)(3), which states that a term has viticultural significance when it is the name of a State. Therefore, the part 9 regulatory text set forth in this proposed rule specifies only "Elkton Oregon" and "Elkton OR" as terms of viticultural significance for purposes of part 4 of the TTB regulations.

If this proposed regulatory text is adopted as a final rule, wine bottlers using “Elkton Oregon” or “Elkton OR” in a brand name, including a trademark, or in another label reference as to the origin of the wine, would have to ensure that the product is eligible to use the viticultural area's full name or the alternative name of “Elkton OR” as an appellation of origin. The approval of the proposed Elkton Oregon viticultural area would not affect any existing viticultural area, and any bottlers using “Umpqua Valley” or “Southern Oregon” as an appellation of origin or in a brand name for wines made from grapes grown within the Umpqua Valley or Southern Oregon viticultural areas would not be affected by the establishment of this new viticultural area. The establishment of the Elkton Oregon viticultural area would allow vintners to use “Elkton Oregon,” “Elkton OR,” “Umpqua Valley,” and “Southern Oregon” as appellations of origin for wines made from grapes grown within the Elkton Oregon viticultural area if the wines meet the eligibility requirements for the appellation.

For a wine to be labeled with a viticultural area name or with a brand name that includes a viticultural area name or other term identified as being viticulturally significant in part 9 of the TTB regulations, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name or other term, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with the viticultural area name or other viticulturally significant term and that name or term appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the viticultural area

name or other viticulturally significant term appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label.

Different rules apply if a wine has a brand name containing a viticultural area name or other viticulturally significant term that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

Public Participation

Comments Invited

TTB invites comments from interested members of the public on whether the agency should establish the proposed Elkton Oregon viticultural area. TTB is interested in receiving comments on the sufficiency and accuracy of the name, boundary, climate, soils, and other required information submitted in support of the petition. Please provide any available specific information in support of your comment. In addition, given the proposed Elkton Oregon viticultural area's location within both the existing Umpqua Valley and Southern Oregon viticultural areas, TTB is interested in comments on whether the evidence submitted in the petition regarding the distinguishing features of the proposed viticultural area sufficiently differentiates it from the existing Umpqua Valley and Southern Oregon viticultural areas. TTB is also interested in comments on whether the geographic features of the proposed viticultural area are so distinguishable from the surrounding Umpqua Valley and Southern Oregon viticultural areas that the proposed Elkton Oregon viticultural area should no longer be part of those

viticultural areas. Please provide any available specific information in support of your comments.

Because of the potential impact of the establishment of the proposed Elkton Oregon viticultural area on wine labels that include the terms “Elkton Oregon” or “Elkton OR” as discussed above under **Impact on Current Wine Labels**, TTB is also interested in comments regarding whether there will be a conflict between the proposed area name and currently used brand names. If a commenter believes that a conflict will arise, the comment should describe the nature of that conflict, including any anticipated negative economic impact that approval of the proposed viticultural area will have on an existing viticultural enterprise. TTB is also interested in receiving suggestions for ways to avoid conflicts, for example, by adopting a modified or different name for the viticultural area.

Submitting Comments

You may submit comments on this notice by using one of the following three methods:

- Federal e-Rulemaking Portal: You may send comments via the online comment form posted with this notice within Docket No. TTB–2012–0005 on “Regulations.gov,” the Federal e-rulemaking portal, at <http://www.regulations.gov>. A direct link to that docket is available under Notice No. 130 on the TTB Web site at http://www.ttb.gov/wine/wine_rulemaking.shtml. Supplemental files may be attached to comments submitted via Regulations.gov. For complete instructions on how to use Regulations.gov, visit the site and click on the site’s “Help” tab.

- U.S. Mail: You may send comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044-4412.

- Hand Delivery/Courier: You may hand-carry your comments or have them hand-carried to the Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Suite 200-E, Washington, DC 20005.

Please submit your comments by the closing date shown above in this notice. Your comments must reference Notice No. 130 and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. TTB does not acknowledge receipt of comments, and considers all comments as originals.

In your comment, please indicate if you are speaking on your own behalf or on behalf of an association, business, or other entity. If you are speaking on behalf of an entity, your comment must include the entity's name as well as your name and position title. If you comment via <http://www.regulations.gov>, please also enter the entity's name in the "Organization" blank of the online comment form. If you comment via postal mail or hand delivery/courier, please submit your entity's comment on letterhead.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not include, attach, or enclose any material in or with your comments that you consider to be confidential or inappropriate for public disclosure.

Public Disclosure

On the Federal e-rulemaking portal, Regulations.gov, TTB will post, and you may view, copies of this notice, selected supporting materials, and any online or mailed comments TTB receives about this. A direct link to the Regulations.gov docket containing this notice and the posted comments received on it is available on the TTB Web site at <http://www.ttb.gov/wine/wine-rulemaking.shtml> under Notice No. 130. You may also reach the docket containing this notice and the posted comments received on it through the Regulations.gov search page at <http://www.regulations.gov>. For instructions on how to use Regulations.gov, visit the site and click on "User Guide" under "How to Use this Site."

All posted comments will display the commenter's name, organization (if any), city, and State, and, in the case of mailed comments, all address information, including e-mail addresses. TTB may omit voluminous attachments or material that TTB considers unsuitable for posting.

You may view copies of this notice, all related petitions, maps and other supporting materials, and any electronic or mailed comments TTB receives about this proposal by appointment at the TTB Information Resource Center, 1310 G

Street, NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5- x 11-inch page. Contact the information specialist at the above address or by telephone at 202-453-2270 to schedule an appointment or to request copies of comments or other materials.

Regulatory Flexibility Act

TTB certifies that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

This proposed rule is not a significant regulatory action as defined by Executive Order 12866. Therefore, it requires no regulatory assessment.

Drafting Information

Karen A. Thornton of the Regulations and Rulings Division drafted this notice.

List of Subjects in 27 CFR Part 9

Wine.

Proposed Regulatory Amendment

For the reasons discussed in the preamble, TTB proposes to amend title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

2. Subpart C is amended by adding § 9._____ to read as follows:

§ 9._____ Elkton Oregon.

(a) Name. The name of the viticultural area described in this section is “Elkton Oregon”. “Elkton OR” may also be used as the name of the viticultural area described in this section. For purposes of part 4 of this chapter, “Elkton Oregon” and “Elkton OR” are terms of viticultural significance.

(b) Approved maps. The five United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the Elkton Oregon viticultural area are titled:

- (1) Kellogg Quadrangle, Oregon-Douglas Co., Provisional Edition 1990;
- (2) Old Blue Quadrangle, Oregon-Douglas Co., Provisional Edition 1990;
- (3) Devils Graveyard Quadrangle, Oregon-Douglas Co., Provisional Edition 1990;

(4) Elkton Quadrangle, Oregon-Douglas Co., Provisional Edition 1990;
and

- (5) Yellow Butte, Oregon-Douglas Co., Provisional Edition 1987.

(c) Boundary. The Elkton Oregon viticultural area is located in Douglas County, Oregon. The boundary of the Elkton Oregon viticultural area is as described below:

(1) The beginning point is on the Kellogg map at the intersection of the T23S/T24S and R7W/R8W common lines. From the beginning point, proceed northwest in a straight line, crossing onto the Old Blue map, to the eastern-most intersection of the T22S/T23S and R8W/R9W common lines; then

(2) Proceed north along the R8W/R9W common line onto the Devils Graveyard map, across the Umpqua River, to the intersection of the R8W/R9W common line with the 1,000-foot elevation line along the western boundary of section 30, T21S/R8W; then

(3) Proceed generally east along the meandering 1,000-elevation line that crosses over Patterson Creek, Weatherly Creek headwaters, Cedar Creek, and House Creek; continue following the 1,000-foot elevation line onto the Elkton map, back to the Devils Graveyard map, returning to the Elkton map, and then continuing generally east and southeast across Paradise Creek and Little Tom Folley Creek, to the intersection of the 1,000-foot elevation line with an unnamed, improved road in the southeast quadrant of section 4, T22S/R7W; then

(4) Proceed south-southwest along the unnamed, improved road to the intersection of that road with an unimproved logging road, approximately 1.65 miles due north of the Mile 5 marker on Elk Creek, section 9, T22S/R7W; then

(5) Proceed southeast in a straight line, passing through the southeast corner of section 9, T22S/R7W, to Elk Creek, section 15, T22S/R7W; then

(6) Proceed generally southeast (downstream) along Elk Creek to the State Route 38 bridge at BM 172, section 15, T22S/R7W; then

(7) Proceed south in a straight line to the intersection of the 1,000-foot elevation line and the section 22 south boundary line, T22S/R7W; then

(8) Proceed generally south, west, and then north along the meandering 1,000-foot elevation line crossing back and forth between the Kellogg map and the Yellow Butte map, returning to the Yellow Butte map to the intersection of the 1,000-foot elevation line with the R7W/ R6W common line on Bell Ridge, along the section 1 east boundary line, T23S/R7W; then

(9) Proceed southeast in a straight line to the intersection of the line with the 1,000-foot elevation line and an unnamed, unimproved road, section 7, T23S/R6W; then

(10) Proceed south and west along the meandering 1,000-foot elevation, crossing back and forth between the Kellogg and Yellow Butte maps, and finally returning to the Kellogg map, to the intersection of the 1,000-foot elevation line with the T23S/T24S common line along the section 3 north boundary line, T24S/R7W; and then

(11) Proceed west along the T23S/T24S common line to the beginning point.

Signed: June 11, 2012.

John J. Manfreda,

Administrator.

[FR Doc. 2012-14920 Filed 06/18/2012 at 8:45 am; Publication Date: 06/19/2012]